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Of Attorneys for Defendant The Dominican Sisters
Of Ontario, Inc. dba Holy Rosary Medical Center

UNITED STATES DISTRICT COURT
DISTRICT OF OREGON

EDNA M. SONSTENG,

Case No. CV06 476 SU

Plaintiff,

**MOTION TO DISMISS
AMENDED COMPLAINT**

-vs-

**THE DOMINICAN SISTERS OF ONTARIO,
INC.,** an Oregon non-profit corporation,
dba, **HOLY ROSARY MEDICAL CENTER;**
JOSEPH J. BOYLE, M.D., and **FRANK
J. SPOKAS, M.D.,**

(By Defendant The
Dominican Sisters of
Ontario, Inc. dba
Holy Rosary Medical
Center)

Defendants.

Certification Under LR 7.1

Counsel for Defendant The Dominican Sisters of Ontario, Inc. dba
Holy Rosary Medical Center (hereinafter HRMC), and plaintiff's counsel

made a good faith effort through telephone conference to resolve the disputes and have been unable to do so.

Motion

Defendant HRMC moves the Court for its Orders as follows:

1. Dismissing plaintiff's claim for a survival action on the ground that the amended complaint fails to state a claim upon which relief can be granted as a survival action;

2. Dismissing Count I of the amended complaint on the ground that the first count shows on its face that it is barred by the statute of limitations because it does not allege a misrepresentation sufficient to toll the ultimate repose period, five years from the date of treatment, as to defendant HRMC.

3. Dismissing Count II of the amended complaint on the ground that the second count shows on its face that it is barred by the statute of limitations because it does not allege facts sufficient to toll the five-year ultimate repose period as to defendant HRMC.

Defendant HRMC relies on FRCP 12(b)(6) and the accompanying memorandum.

DATED this 12 day of October, 2006.

YTURRI ROSE, LLP



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Of Attorneys for Defendant HRMC

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 12 day of October, 2006, I caused to be served a true copy of the foregoing MOTION TO DISMISS COMPLAINT by the method indicated below,

☒ U.S. Mail, Postage Prepaid
☐ Hand Delivered
☐ Overnight Mail
☐ Facsimile Transmission
☐ Electronic Submission

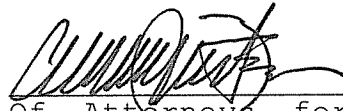
and addressed to each of the following individuals:

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Sisters of Ontario, Inc. dba Holy Rosary
Medical Center

CERTIFICATE OF SERVICE